

# Measuring the dimensions of social exclusion in different juvenile justice systems



FÁTIMA PÉREZ JIMÉNEZ

INSTITUTO DE CRIMINOLOGÍA, MÁLAGA (SPAIN)

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JOSÉ LUIS DíEZ RIPOLLÉS (2011-2013):

**Social inclusion and comparative criminal justice policy**

**INCLUSION:** the intervention seeks social  
reintegration

**EXCLUSION:** the intervention aims to achieve  
incapacitation

**NINE POOLS**

## ELABORATION OF THE INSTRUMENT

- DELPHI METHOD
- CONTENT VALIDATION BY JUDGMENT OF EXPERTS

**Members of Criminal Law Department and Institute of Criminology: punitive rules and practices according to criteria of completeness, extension, ease of access, discrimination capacity and clarity**

**International experts: clarity, suitability and appropriateness to the basket**

Selection by the team of the best scored with the coefficient V of Aiken

**39 items: 26 rules and 12 practices**

Spain: pilot project

**ítem 113 (rule):** Youth justice applies to children who are 12 years old or younger

**ítem 117 (rule).** Youth justice provides custodial sanctions of over 10 years

**ítem 120 (rule):** Minors' criminal records keep legal effects after reaching the age of majority

**ítem 121 (practice):** Custodial sanction is one out of three most common sanctions applied to minors

**ítem 126 (practice):** Alien minors are deported because of an offence

## Youth criminal justice

Spain  
Poland  
Germany  
United Kingdom  
Italy  
California  
New York

## Rule

**Youth justice  
applies to  
children who  
are 12 years  
old or younger**

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**NO:** Spain, Germany and Poland

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**New York:** juvenile delinquent is a child over 7 (section 3; section 301.2 (a) *New York Family Court Act*)

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**California:** there is no law that prevents children from being charged

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**Italy:** minors under 14 considered socially dangerous can get a security measure of judicial reformatory or probation (art. 224 CPI)

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**United Kingdom:** England, Wales and Northern Ireland: 10 years. Scotland: 8 years

# Youth justice provides custodial sanctions of over 10 years

**California:** sentences imposed are of indeterminate length

**New York:** for some serious crimes, juvenile offenders are treated essentially like adults, in terms of their punishment and prosecution

**Germany:** the maximum penalty period is 10 years, but if a murder has been committed and depending on the seriousness of the offence, this period can be up to 15 years (**art. 105.2.3**)

**Italy:** Article 65.3 of the ICC provides that in the case of minors the penalty is reduced to "not more than one third". Accordingly, in a case of homicide (art. 575 ICC) punishable by 21 years' imprisonment, a one-third reduction amounts to a sentence of 14 years.

**Poland:** the criminal law applicable to juvenile offenders is of a corrective nature, therefore the duration of sanctions is indeterminate

**United Kingdom:** There is a possibility that a juvenile may be sentenced to life imprisonment: **Detention during Her Majesty's Pleasure**, imposed when the person is convicted of or pleads guilty to murder.

# Criminal records of minors have legal effects upon reaching the age of majority.

## New York:

art. 381.2 *New York Family Court Act*

## California:

“Three Strikes Law”  
(Pen. Code, § 667  
(d)(3) and 1170.12  
(b)(3))

## Italy:

custodial sentences imposed during the minor's age, even if they have been suspended (art. 14 y 15 Decree núm. 448. 1988)

## Germany:

if a criminal record relating to a conviction is still entered in the Central Criminal Register or the Register of Educational Measures, it retains its legal effect

## United Kingdom:

The criminal records of juveniles are subject to "rehabilitation periods"

**NO:** Spain and Poland



Practice

**Custodial sanction is one out of three most common sanctions applied to minors**

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**NO:** United Kingdom, Poland, Italy and Germany

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**New York:** as of 2018, the sanction most often imposed was *probation*, with imprisonment imposed about 50% less, placing it in second place

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**California:** placement in a county facility was the second most frequently imposed sanction on sanctioned juveniles, also about 50% less than probation in one's own or a relative's home (2014-2019)

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**Spain:** probation is the most frequently imposed measure in the last period (2012-2019), as it is decided around 40% of the occasions; custodial sentence is the next one, as it is imposed, more or less, in 16% of criminal cases.



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**NO:** Spain, Poland and Italy

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**United Kingdom:** the removal process for children does not differ in its essential elements from that for adults (art. 32 *UK Border Act of 2007*; *Immigration Act, 1971* (art. 3.5); *Early Removal Release Scheme* contained in the *Criminal Justice Act, 2003*)

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**California and New York :** Removal is one of the measures that both the Probation Department and the Juvenile Courts can impose on juveniles who are arrested and referred to the juvenile justice system (US Code §1227 (a) (2) - *Conduct-based and non-conduct based grounds for deportation*)

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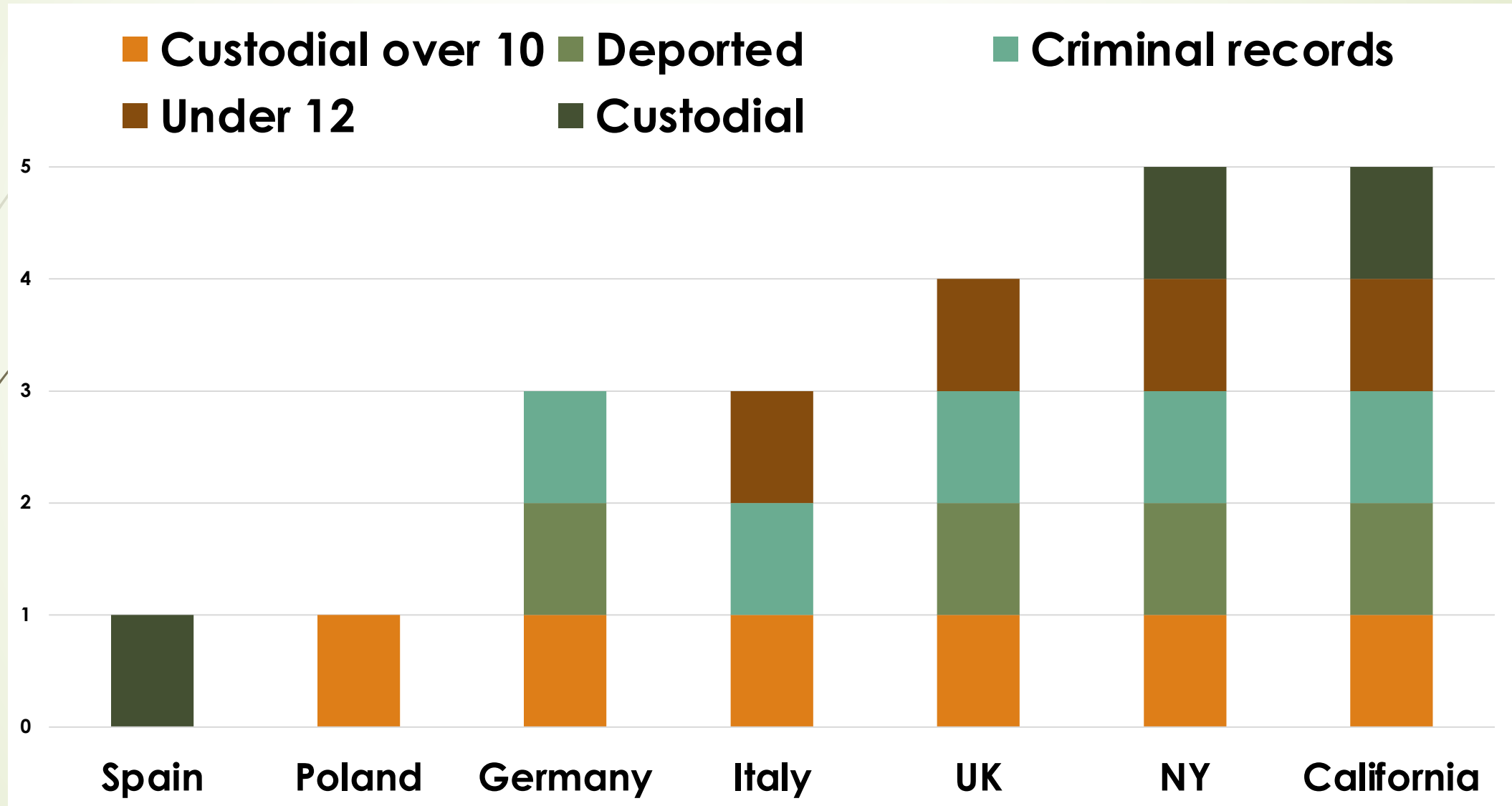
**Germany:** If a foreigner has endangered public safety, public order or other significant interests of the country, they shall be expelled after weighing the public interest in their expulsion against their individual interest in remaining in the country: *Law on the residence, economic activity and integration of foreigners of 2008* (art. 53 and ss.)

Practice



**Alien minors  
are deported  
because of  
an offence**

# INDICATORS OF EXCLUSION IN JUVENILE CRIMINAL LAW (RIMES)



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Thank you!!